

Amendment No. 1 to HB1837

Travis  
Signature of Sponsor

**AMEND Senate Bill No. 1823**

**House Bill No. 1837\***

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 5, Part 15, is amended by deleting the part and substituting instead the following:

**71-5-1501.**

(a) This part shall be known and may be cited as the "Ground Ambulance Service Provider Assessment Act."

(b) The intent of this part is to enhance EMS services and improve access to emergency medical pre-hospital care in this state.

**71-5-1502.**

As used in this part:

(1) "Ambulance provider" means a public or private ground-based ambulatory service, other than an ambulance service based on federal property, that bills for transports and has a base of operations within the state;

(2) "Assessment" means the medicaid ambulance provider assessment established by this part;

(3) "Bureau" means the bureau of TennCare;

(4) "Medicaid transport" means ground ambulance services specified in the Healthcare Common Procedure Coding System (HCPCS) under codes A0225, A0426, A0427, A0428, A0429, A0433, and A0434,

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and paid by medicaid, as recorded by the managed care organization under contract to the bureau;

(5) "Net operating revenue" means all revenues, regardless of payer source, collected by ambulance providers for patient services excluding charity care or any other uncompensated patient services, in accordance with 42 CFR 433.68;

(6) "Office of emergency medical services" means the office of emergency medical services within the department of health; and

(7) "Total transports" means all transports reported during the base period by a provider to the office of emergency medical service.

**71-5-1503.**

(a) An ambulance provider shall pay an assessment to the bureau:

(1) In accordance with this part;

(2) In the amount designated in § 71-5-1504;

(3) Quarterly, on a day determined by the bureau; and

(4) No more than thirty (30) business days after the day on which the bureau issues the ambulance provider notice of the assessment.

(b) The bureau shall:

(1) Determine the standards and procedures used to implement and enforce this part;

(2) Collect the assessment described in subsection (a); and

(3) Transfer assessment proceeds to the state treasurer for deposit into the ambulance service assessment revenue fund created in § 71-5-1507.

(c) An ambulance provider shall not increase charges or add a surcharge to ground transports based on, or as a result of, the assessment described in subsection (a).

**71-5-1504.**

(a) The bureau shall calculate a uniform assessment per ground transport for each ambulance provider pursuant to subsection (b).

(b) Except as otherwise provided in subsection (c), each quarter of the state fiscal year, the assessment due from each ambulance provider will equal the rate set in subsection (e) multiplied by each provider's transport totals reported from the most recent available completed quarter of transport data recorded by the office of emergency medical services. Ambulance providers will be required to submit a quarterly reporting of all transports to the office of emergency medical services in a manner determined by the office of emergency medical services and the bureau.

(c) In the event that quarterly transport data is not adequate or available for the calculation of assessments, the bureau shall use total transports submitted to the office of emergency medical services for calendar year 2017. The adequacy and availability of the data shall be determined solely by the bureau.

(d) The bureau shall apply any annual changes to the assessment rate, calculated as described in subsection (b), uniformly to all assessed ambulance providers.

(e) The assessment shall generate the lesser of:

(1) Nine dollars and nine cents (\$9.09) per each medicaid transport; or

(2) In the event that nine dollars and nine cents (\$9.09) per transport causes the statewide assessment to exceed six percent (6%) of statewide net operating revenues, the per transport assessment will equal an amount that shall generate six percent (6%) of statewide net operating revenues.

(f) No more than ninety (90) days after the end of each calendar year, each ambulance provider shall submit revenue reports to the bureau for that entity's most recent fiscal year that ended at least ninety (90) days before this due date.

(g) The comptroller is granted audit authority to test the accuracy of any and all net patient service revenue reports submitted to the bureau for the purposes of this assessment. The comptroller is authorized to impose penalties on providers that do not submit revenue reports, including, but not limited to, fines determined by the comptroller.

**71-5-1505.**

(a) Upon approval by the centers for medicare and medicaid services of the assessment imposed by this part, the bureau shall reimburse each ambulance provider with qualifying ground ambulance service medicaid transports in an amount calculated by the bureau. This calculation will be determined by the bureau's estimate of assessment collections and the resulting available program funding, less an annual amount of seventy-five thousand dollars (\$75,000) to offset medicaid administration expenses and an annual amount of eighty thousand dollars (\$80,000) to offset administrative expenses for the Tennessee Ambulance Services Association. If less than these amounts is

needed to offset the administrative expenses, the bureau shall only deduct the amount needed. The bureau's estimate of assessment collections and the resulting program funding, netting out any amounts for offset administrative expenses, must be divided by the bureau's projected number of medicaid transports. The resulting amounts will be the additional payment amount made for each medicaid transport reported by the MCO's on a quarterly basis. This amount may change from quarter to quarter.

(b) The bureau shall disburse supplemental payments to ambulance providers based on medicaid transports from the base period as determined by the bureau and as authorized by the centers for medicare and medicaid services.

**71-5-1506.**

(a) The bureau has the authority to create policy measures that ensure the enforcement and compliance of this part. The bureau shall require an ambulance provider that fails to pay an assessment due under this part to pay the bureau, in addition to the assessment, a penalty determined by the bureau. Enforcement measures determined by the bureau shall include, but not be limited to, recoupments, withholds of future payments, and loss of medicaid ID.

(b) The bureau shall require ambulance providers to submit quarterly transport count data for all transports to the office of emergency services within thirty (30) days of the end of the quarter.

**71-5-1507.**

(a) There is created a special agency account in the state general fund to be known as the "ambulance service assessment revenue fund," referred to in this part as the "fund." The fund shall continue without interruptions and shall be operated in accordance with this section.

(b) Unless otherwise specified in this part, revenue generated from the following sources must be deposited in the fund:

- (1) Assessments collected by the bureau under this part;
- (2) Penalties collected by the bureau under this part;
- (3) Donations to the fund from private sources; and
- (4) Investment earnings credited to the fund.

(c) Any fund balance remaining unexpended at the end of a fiscal year carries forward into the subsequent fiscal year and shall not be diverted to the general fund or any other public fund.

(d) Interest accruing on investments and deposits of the fund carries forward into the subsequent fiscal year and shall not be diverted to the general fund or any other public fund.

(e) The state treasurer shall invest the moneys in the fund in accordance with the provisions of § 9-4-603. The bureau shall administer the funds.

(f) Moneys in the fund must not be diverted to the general fund or any other public fund or any other third party, and moneys in the fund may only be used to:

(1) Create supplemental or directed payments for ground ambulance providers; and

(2) Reimburse the amounts designated in § 71-5-1505 for the purpose of administrative expenses.

(g) In the event that this part is rendered invalid and void:

(1) To the extent federal matching is not reduced due to the impermissibility of the assessments, the bureau shall disburse pursuant to subsection (f) the moneys remaining in the fund that were derived from

assessments imposed by this part and deposited before the occurrence of the invalidating event; and

(2) Following disbursement of moneys in the fund pursuant to subdivision (g)(1), the bureau shall refund any remaining moneys to each ambulance provider in proportion to the amount paid by the respective provider during the most recently completed quarterly payment period.

**71-5-1508.**

(a) The assessment in this part shall not be implemented until after the bureau receives notice from the centers for medicare and medicaid services that approval for the assessment is granted.

(b) The bureau shall implement this part to the extent that it is not inconsistent with the TennCare II federal waiver or any successor federal waiver.

(c) Within ninety (90) days after the date this part becomes law, the bureau shall determine whether an amendment to the TennCare II waiver or any successor federal waiver is required to implement this part. If the bureau determines that an amendment to the TennCare II federal waiver or any successor federal waiver is necessary, the bureau is authorized to seek any necessary waiver amendment and the assessment in this part must not take effect until the waiver amendment is approved.

(d) The ground ambulance provider assessment established by this part terminates on June 30, 2019.

**71-5-1509.**

The bureau is authorized to promulgate rules to effectuate the purposes of this part. The rules must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. If any provision of this act or its application to any person or circumstance is held invalid, then all provisions and applications of this act shall be invalid and void.

SECTION 3. For the purpose of rulemaking and the submission revenue reports, transports data, and other data necessary to implement this act, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect on July 1, 2018, the public welfare requiring it.